

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
	)	
Jay D. KRANZLER et al.	)	Group Art Unit: 1614
	)	
Application No.: 10/623,431	)	Examiner: Alicia R. HUGHES
	)	
Filed: July 18, 2003	)	
	)	
For: METHODS OF TREATING	)	Confirmation No.: 4067
FIBROMYALGIA SYNDROME,	)	
CHRONIC FATIGUE SYNDROME	)	
AND PAIN	)	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**TERMINAL DISCLAIMER**

Assignee, Cypress Bioscience, Inc., duly organized under the laws of Delaware and having its principal place of business at 4350 Executive Drive, Suite 325, San Diego, CA 92121, represents that it is the assignee of the entire right, title, and interest in and to the above-identified application, U.S. Patent Application No. 10/623,431, filed July 18, 2003, for METHODS OF TREATING FIBROMYALGIA SYNDROME, CHRONIC FATIGUE SYNDROME AND PAIN in the names of Jay D. Kranzler and Srinivas G. Rao, as indicated by assignment duly recorded in the United States Patent and Trademark Office in parent U.S. Patent Application No. 10/028,547 at Reel 012773, Frame 0222, on March 27, 2002. Assignee, Cypress Bioscience, Inc., further represents that it is the assignee of the entire right, title, and interest in and to U.S.

Patent Application No. 11/835,590, as indicated by an assignment duly recorded in the United States Patent and Trademark Office at Reel 020145, Frame 0360, on November 21, 2007.

To obviate a double patenting rejection, Assignee hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application that would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173, as shortened by any terminal disclaimer, of any patent granted on U.S. Patent Application No. 11/835,590. Assignee hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on U.S. Patent Application No. 11/835,590 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, Assignee does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of any patent granted on prior U.S. Patent Application No. 11/835,590, as shortened by any terminal disclaimer, in the event that the patent granted on prior U.S. Patent Application No. 11/835,590 later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or in part, is terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated before the expiration of its full statutory term as shortened by any terminal disclaimer.

In accordance with the fee schedule in 37 C.F.R. § 1.20(d), the required fee of \$140.00 is submitted with this disclaimer.

If the required fee is not submitted concurrently herewith or if there are any additional fees due in connection with the filing of this Terminal Disclaimer, please charge the fees to Deposit Account No. 06-0916. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to Deposit Account No. 06-0916.

The undersigned is an attorney of record.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: June 17, 2009

By: \_\_\_\_\_



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